

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BILL WISSER,

Plaintiff,

- against -

1220 COLLINS AVENUE, INC. D/B/A THE WEBSTER

Defendant.

Docket No. 1:19-cv-00349

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Bill Wisser (“Wisser” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant 1220 Collins Avenue, Inc. D/B/A The Webster (“Collins” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph Club Deuce, owned and registered by Wisser, a professional photographer. Accordingly, Wisser seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Wisser is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 565 NW 44<sup>th</sup> Street, Miami, Florida 33127.

6. Upon information and belief, Collins is luxury-multi-brand fashion house and for-profit corporation with a place of business 29 Green Street, New York, New York 10013. At all times material, hereto, Collins has owned and operated the following website:  
www.TheWebster.US (the “Website”).

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Wisser photographed Club Deuce (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Wisser is the author of these Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VAu 525-476.

### **B. Defendant’s Infringing Activities**

10. Collins ran the Photograph on the Website. See URL:  
<https://thewebster.us/pow/phil-oh/>. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.

11. Collins did not license the Photograph from Plaintiff for its Website, nor did Collins have Plaintiff’s permission or consent to publish the Photograph on its Website.

## **CLAIM FOR RELIEF** **(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)** **(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Collins infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Collins is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Collins be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. §505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
January 13, 2019

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